

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 218.4, the Department of Human Services proposes to amend Chapter 28, "Policies for All Institutions," and to rescind Chapter 29, "Mental Health Institutes," and Chapter 30, "State Resource Centers," Iowa Administrative Code, and adopt new Chapters 29 and 30 with the same titles.

These proposed amendments update and reorganize rules relating to state mental health institutes and resource centers. Most of the changes are technical changes to reflect the current Department management structure for the facilities, create a uniform term for persons served, update form numbers, and remove obsolete forms and procedures to reflect current practice. Rules specific to one type of facility have been moved from Chapter 28 to Chapter 29 or 30, as applicable.

An individual's right to file a grievance is clarified and established by rule. Clarification has been made as to which persons, besides the individual being served, have the right to make decisions on behalf of the individual. The lists of rights for individuals with mental illness or mental retardation have been updated to reflect current language and practice.

The voluntary application process for admissions to state mental health institutes is revised to reflect the change in Iowa Code section 331.440(3) requiring all applications for admission to go through the individual's county of residence central point of coordination process. As required by Iowa Code section 229.42, applications are required to have an authorized county signature before the mental health institute can accept the application. Counties will have broad discretion in determining which person or persons may provide the authorization.

These amendments do not provide for waivers in specified situations except for waivers to the established catchment areas for the facilities. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). However, Iowa law places authority and responsibility with county government to accept, process, and approve applications. The rights of individuals served to confidentiality and privacy are also defined by law. The Department has no authority to waive those requirements. Individuals are given the right to make their own decisions about maintaining confidentiality and privacy.

Any interested person may make written comments on the proposed amendments on or before May 13, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapters 217, 218, 222, 225C, 228, 229, and 230.

The following amendments are proposed.

ITEM 1. Amend rule 441—28.1(218), introductory paragraph, as follows:

441—28.1(218) Definitions. The definitions in this rule apply to 441—Chapters 28, 29, and 30.

ITEM 2. Rescind the definitions of “Administrator” and “Director” in rule **441—28.1(218)**.

ITEM 3. Amend rule **441—28.1(218)**, definition of “Superintendent,” as follows:

“*Superintendent*” means the superintendent of any of the four mental health institutes and the two state ~~hospital-schools~~ resource centers.

ITEM 4. Adopt the following new definitions in rule **441—28.1(218)**:

“*Admission*” means the acceptance of an individual for full residence at a state mental health institute or resource center on either a voluntary or involuntary basis.

“*Adult*” means an individual who is 18 years of age or older.

“*Board of supervisors*” means the elected governing body of a county as defined in Iowa Code section 331.101.

“*Catchment area*” means the group of counties, designated by the deputy director, that each mental health institute or state resource center is assigned to serve.

“*Central point of coordination process*” means the process defined in Iowa Code section 331.440(1)“a.”

“*Child*” means an individual who is under the age of 18.

“*Deputy director*” means the deputy director for field operations within the Iowa department of human services.

“*Family contact*,” for an adult individual, means:

1. The family member the individual has designated in writing to receive information concerning the individual’s services; or

2. A person, often referred to as a substitute decision maker, who has been legally authorized to make care decisions for the individual if the individual loses decision-making capacity.

“*Grievance*” means a written or oral complaint by or on behalf of an individual involving:

1. A rights violation or unfairness to the individual, or

2. Any aspect of the individual’s life with which the individual does not agree.

“*Guardian*” means the person other than a parent of a child who has been appointed by the court to have custody of the person of the individual as provided under Iowa Code section 232.2(21) or 633.3(20).

“*Individual*” means any person seeking or receiving services from a state mental health institute or a state resource center.

“*Informed consent*” means an agreement by an individual or by the individual’s parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.

2. A description of the attendant discomforts and risks.

3. A description of the benefits to be expected.

4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.

5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“*Legal representative*” means a person, including an attorney, who is authorized by law to act on behalf of an individual.

“*Legal settlement*” means the determination made under Iowa Code sections 252.16 and 252.17 to identify whether one of the 99 Iowa counties has a legal obligation to provide financial support for an individual.

“*Parent*” means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

“*Rights*” means the human, civil, and constitutional liberties an individual possesses through federal and state constitutions and laws.

“*State case*” means the determination made under Iowa Code section 252.16 that identifies an individual as not having legal settlement in an Iowa county and places funding responsibility with the state.

ITEM 5. Adopt the following new implementation sentence in rule **441—28.1(218)**:
This rule is intended to implement Iowa Code section 218.4.

ITEM 6. Rescind rule 441—28.2(218) and adopt the following new rule in lieu thereof:

441—28.2(218,222) Selection of facility.

28.2(1) Application for voluntary admission to a state mental health institute or resource center shall be made to the facility in the catchment area within which the individual for whom admission is sought is a resident as defined in:

- a.* Rule 441—29.1(218) for the state mental health institutes; or
- b.* Rule 441—30.1(218,222) for the state resource centers.

28.2(2) Court commitment of an individual shall be made:

- a.* To the facility in the catchment area within which the individual who is being committed is a resident as defined in rule 441—29.1(218) or 441—30.1(218,222); or
- b.* As designated by the deputy director.

28.2(3) The deputy director shall consider granting exceptions to the established catchment areas when requested by the individual seeking a voluntary admission or by the committing court. The deputy director's decision shall be made within 48 hours of receipt of the request. The decision shall be based on:

- a.* The clinical needs of the individual;
- b.* The availability of appropriate program services;
- c.* Available bed space within the program at the requested facility; and
- d.* The consent of the superintendents of both facilities involved.

This rule is intended to implement Iowa Code sections 218.19, 218.20, and 222.6.

ITEM 7. Rescind rule 441—28.3(218) and adopt the following new rule in lieu thereof:

441—28.3(222,230) Evidence of legal settlement. The supporting evidence for determination of an individual's legal settlement shall include all available information used to make a determination of legal settlement as defined in Iowa Code sections 252.16 and 252.17.

28.3(1) Supporting evidence shall include, but need not be limited to:

- a.* The current and former addresses of the individual, including the dates for the period when the individual resided at each address;
- b.* The individual's current services and service history, including the name and location of the provider and the dates when services were received;
- c.* The history of addresses and services received by the individual's custodial parent or guardian (when the individual takes the legal settlement of the custodial parent or guardian as defined in Iowa Code section 252.16);
- d.* Copies of any court orders affecting a minor individual's custody or guardianship; and
- e.* Any other information needed to make a determination of legal settlement.

28.3(2) Copies of the following forms may be submitted as supporting evidence, if properly completed:

- a.* Form 470-3439, Legal Settlement Worksheet.
- b.* A county central point of coordination application.
- c.* Form 470-4160, Notice of Court Action on Mental Health Hospitalization.

28.3(3) If a county asserts that an individual's legal settlement is unknown so that the individual is deemed a state case, the county that makes the assertion shall provide documentation of all attempts made by the county to ascertain the facts necessary to make a legal settlement determination. Documentation shall include:

- a.* Information about each person contacted during the investigation, including the person's name, address, telephone number, and E-mail address if available;
- b.* The information obtained during the investigation; and

c. Identification of the person conducting the investigation.

This rule is intended to implement Iowa Code sections 222.50, 222.60 to 222.79, 230.1 to 230.6, 230.10, and 230.11.

ITEM 8. Rescind rule 441—28.4(229) and adopt the following **new** rule in lieu thereof:

441—28.4(225C,229) Grievances. Any individual who believes the individual's rights have been violated by a mental health institute or resource center or who has any complaint concerning the individual's treatment at a mental health institute or resource center may file a grievance. A grievance shall be filed using Form 470-4498, Individual Grievance. The individual's parent, family, guardian, or legal representative may file a grievance on behalf of the individual.

This rule is intended to implement Iowa Code sections 225C.27 and 229.23.

ITEM 9. Amend rule 441—28.5(218) as follows:

441—28.5(217,218) Photographing and recording of ~~patients~~ individuals and use of cameras.

28.5(1) Use of cameras ~~and~~ or voice recorders by anyone other than an authorized employee, individual, parent, guardian, or legal representative to photograph or record an individual shall be allowed ~~within the institution~~ only with the prior authorization of the superintendent or the superintendent's designee. Permission to photograph and record shall be granted for one specific use, and the authorization shall not extend to any other use.

28.5(2) Photographs and recordings of ~~a voluntary patient of legal age~~ an adult individual shall be taken for publication only with a signed ~~release~~ informed consent from the ~~patient~~ individual or the individual's guardian or legal representative.

28.5(3) Photographs and recordings of ~~a patient who is a minor, committed mental patient, mentally retarded, or ward of the state~~ minor individual shall be taken for publication only with a signed ~~release~~ informed consent from the parent, ~~or legal~~ guardian, or legal representative.

28.5(4) Every effort shall be made to preserve the inherent dignity of the ~~patient~~ individual and to preclude exploitation or embarrassment of the ~~patients~~ individual or the family of the ~~patients~~ individual.

28.5(5) Pictures and recordings of ~~patients~~ individuals are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of individuals with mental illness or mental retardation.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

ITEM 10. Amend rule 441—28.6(218) as follows:

441—28.6(217,218) Interviews and statements.

28.6(1) Releases to the news media shall be the responsibility of the superintendent. Authority for dissemination and release of information ~~shall~~ may be designated to other ~~persons~~ employees at the discretion of the superintendent.

28.6(2) Interviews of ~~patients~~ individuals by the news media or other outside persons or groups shall be permitted only with the consent of the ~~patient~~ individual or the ~~patient's legal~~ individual's parent, guardian, or legal representative.

a. When a request without known prior consent is received, the superintendent or designee shall not acknowledge the presence or nonpresence of ~~a person as a patient~~ an individual at the institution.

b. If the ~~patient~~ individual is in the ~~hospital facility~~, the superintendent or designee shall make the ~~patient~~ individual or the individual's parent, guardian, or legal representative aware of the request. Notice to the ~~patient~~ individual or the individual's parent, guardian, or legal representative shall be documented in the ~~patient's~~ individual's record. The ~~patient~~ individual or the individual's parent, guardian, or legal representative shall be free to decide whether ~~or not~~ an interview is granted.

This rule is intended to implement Iowa Code ~~section~~ sections 217.30 and 218.4.

ITEM 11. Amend rule 441—28.8(218) as follows:

441—28.8(218) Tours of institution. Groups or ~~individuals~~ persons shall be permitted to tour the institution only with approval of the superintendent or designee.

This rule is intended to implement Iowa Code section 218.4.

ITEM 12. Amend rule 441—28.9(218) as follows:

441—28.9(218) Donations. Donations of money, clothing, books, games, recreational equipment or other gifts shall be made directly to the superintendent or designee. The superintendent or designee shall evaluate the donation in terms of the nature of the contribution to the hospital program. The superintendent or designee shall be responsible for accepting the donation and reporting the gift to the ~~administrator, division of mental health, mental retardation, and developmental disabilities~~ deputy director. All monetary gifts shall be acknowledged in writing to the donor.

This rule is intended to implement Iowa Code chapter 218.

ITEM 13. Rescind and reserve rules **441—28.10(218)** and **441—28.11(218)**.

ITEM 14. Rescind 441—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29
MENTAL HEALTH INSTITUTES

PREAMBLE

This chapter sets policies for the state mental health institutes listed in Iowa Code section 218.1. These rules apply in addition to the general rules in 441—Chapter 28.

441—29.1(218) Catchment areas. The catchment areas for the four mental health institutes shall be as follows.

29.1(1) Cherokee. Audubon, Boone, Buena Vista, Calhoun, Carroll, Cerro Gordo, Cherokee, Clay, Crawford, Dallas, Dickinson, Emmet, Franklin, Greene, Guthrie, Hamilton, Hancock, Hardin, Harrison, Humboldt, Ida, Kossuth, Lyon, Marshall, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Sac, Shelby, Sioux, Story, Webster, Winnebago, Woodbury, Worth, and Wright Counties form the catchment area for the Cherokee mental health institute.

29.1(2) Clarinda. Adair, Adams, Cass, Clarke, Decatur, Fremont, Madison, Mills, Montgomery, Page, Ringgold, Taylor, Union, Warren, and Wayne Counties form the catchment area for the Clarinda mental health institute.

29.1(3) Independence. Allamakee, Benton, Black Hawk, Bremer, Buchanan, Butler, Cedar, Chickasaw, Clayton, Clinton, Delaware, Dubuque, Fayette, Floyd, Grundy, Howard, Iowa, Jackson, Jasper, Johnson, Jones, Linn, Mitchell, Muscatine, Poweshiek, Scott, Tama, and Winneshiek Counties form the catchment area for the Independence mental health institute.

29.1(4) Mount Pleasant. Appanoose, Davis, Des Moines, Henry, Jefferson, Keokuk, Lee, Louisa, Lucas, Mahaska, Marion, Monroe, Van Buren, Wapello, and Washington Counties form the catchment area for the Mount Pleasant mental health institute.

29.1(5) Substance abuse or dual diagnosis treatment. For the purpose of an adult individual seeking substance abuse or dual diagnosis treatment, the Mount Pleasant catchment area shall include the entire state.

29.1(6) Adolescent or children's treatment.

a. For the purpose of treating a minor from the Clarinda catchment area who requires admission or commitment to a mental health institute's adolescent or children's treatment program, the Clarinda catchment area is deemed to be a part of the Cherokee catchment area.

b. For the purpose of treating a minor in the Mount Pleasant catchment area who requires admission or commitment to a mental health institute's adolescent or children's treatment program, the Mount Pleasant catchment area is deemed to be a part of the Independence catchment area.

441—29.2(218,229) Voluntary admissions.

29.2(1) *Application form.*

a. Any individual who has symptoms of mental illness may apply for voluntary inpatient treatment or voluntary outpatient or day treatment using Form 470-0420, Application for Voluntary Admission to a Mental Health Institute.

b. Any individual requesting substance abuse treatment shall complete Form 470-0425, Application for Voluntary Admission—Substance Abuse.

29.2(2) *Children.* A parent, guardian, or legal representative of a minor individual may make application for the individual's voluntary admission directly to the mental health institute using Form 470-0420, Application for Voluntary Admission to a Mental Health Institute. When a minor objects to the admission and the chief medical officer of the mental health institute determines that the admission is appropriate, the parent, guardian, or custodian must petition the juvenile court for approval of admission before the minor is actually admitted.

29.2(3) *County approval.* When an adult individual applying for voluntary admission or those responsible for the individual are unable to pay costs of care, application for admission shall be made to and authorized through the central point of coordination of the individual's county of residence before application for admission is made to the mental health institute. Authorization shall be provided by the signature of one or more official agents designated by the county board of supervisors using Form 470-0420, Application for Voluntary Admission to a Mental Health Institute, before the form is forwarded to the mental health institute.

441—29.3(229,230) Certification of settlement.

29.3(1) *Certification data.* By the end of the next working day following an adult individual's admission, the facility shall send a copy of Form 470-4161, DHS Institution Admission Core Data, by facsimile to the central point of coordination of the county of admission. If the facility is aware that the county of legal settlement may be other than the admitting county, the facility shall alert the admitting county.

29.3(2) *County response.* For voluntary cases where the admitting county has accepted legal settlement using Form 470-0420, Application for Voluntary Admission to a Mental Health Institute, no further response is needed. For all other cases, within four working days after receiving Form 470-4161, DHS Institution Admission Core Data, the admitting county shall return to the facility page 3 of the form, the response sheet for determining legal settlement.

a. If the central point of coordination for the admitting county accepts legal settlement, the admitting county shall mark the response sheet accordingly. No supporting evidence is necessary.

b. If the central point of coordination for another county notified by the admitting county accepts legal settlement, that county shall provide written notice to the facility of that county's acceptance.

c. If the central point of coordination for the admitting county finds the individual's legal settlement to be in another Iowa county, the admitting county shall mark the response sheet accordingly and shall send certification as described in Iowa Code section 230.4 to the county auditor of the other county. A copy of the evidence supporting the determination as prescribed in rule 441—28.3(222,230) shall accompany the certification. If the other county disputes the certification, that county may file a notice of dispute under rule 441—15.2(225C).

d. If the central point of coordination for the admitting county of residence finds that the person has not acquired legal settlement in an Iowa county, the admitting county shall mark the response sheet accordingly. The admitting county shall send certification as described in Iowa Code section 230.5 to the Administrator, DHS Division of Fiscal Management, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. A copy of the evidence supporting the determination as prescribed in rule 441—28.3(222,230) shall accompany the certification.

441—29.4(218,230) Charges for care. The rates for cost of hospitalization are established by the deputy director and shall be available by contacting the business manager of the mental health institute that serves the catchment area in which the individual's county of residence is located.

29.4(1) Individuals requesting voluntary admission without going through the central point of coordination process shall be required to pay the cost of hospitalization in advance. This cost shall be computed at 30 times the last per diem rate and shall be collected weekly in advance upon admission. The weekly amount due shall be determined by dividing the monthly rate by 4.3.

29.4(2) The department shall bill each county for services provided to individuals chargeable to the county during the preceding calendar quarter as required in Iowa Code section 230.20. In determining the charges for services, direct medical services shall include:

- a. X-ray services.
- b. Laboratory services.
- c. Dental services.
- d. Electroconvulsive treatment (ECT).
- e. Electrocardiogram (EKG).
- f. Basal metabolism rate (BMR).
- g. Pharmaceutical services.
- h. Physical therapy.
- i. Electroencephalograph (EEG).
- j. Outside physician and hospital services billed to the mental health institutes.
- k. Optometric services.
- l. Outside ambulance services billed to the mental health institutes.

29.4(3) The liability of a person legally liable for support of an individual with mental illness after 120 days of hospitalization shall be standard for one person in the family investment program as established in 441—subrule 41.28(2).

441—29.5(229) Authorization for treatment. No individual receiving services, either on a voluntary or involuntary basis, shall be provided treatment other than what is necessary to preserve life or protect others from physical injury unless:

1. The individual has given consent by signing Form 470-0428, Mental Health Institute Agreement and Consent to Treatment;
2. A court has ordered treatment; or
3. The individual's parent, guardian, or legal representative has given consent by signing Form 470-0428, Mental Health Institute Agreement and Consent to Treatment.

441—29.6(217,228,229) Rights of individuals. An individual receiving care from a state mental health institute shall have the following rights.

29.6(1) Information. An individual receiving care from a state mental health institute shall have the right to:

- a. Receive an explanation and written copy of the rules of the facility.
- b. Be provided information on the provisions of law pertaining to admission to and discharge from the facility.
- c. Receive an explanation of the individual's medical condition and be informed as to treatment plans and the attendant risks of treatment.
- d. Be provided with complete and current information concerning the individual's diagnosis, treatment, and progress in terms and language understandable to the individual.
- e. Have the information required in this subrule made available to the individual's parent, guardian, or legal representative when it is not feasible to give the information directly to the individual.

29.6(2) Care and treatment. An individual receiving care from a state mental health institute shall have the right to:

- a. Be evaluated promptly following admission and receive emergency services appropriate to the individual's needs.
- b. Have a current individualized written plan of treatment.
- c. Receive appropriate treatment, services, and rehabilitation for the individual's mental illness, including appropriate and sufficient medical and dental care.

d. Have the opportunity for educational, vocational, rehabilitative, and recreational programs appropriate to the individual's treatment needs.

e. Have the confidentiality of the individual's personal mental health institute records maintained and have access to those records within a reasonable period.

f. Work, when available and desired and as appropriate to the individual's plan of treatment, and be compensated for that work in accordance with federal and state laws.

g. Have an individualized posthospitalization plan.

29.6(3) *Living conditions.* An individual receiving care from a state mental health institute shall have the right to:

a. Live in the least restrictive conditions necessary to achieve the purposes of treatment.

b. Receive care in a manner that respects and maintains the individual's dignity and individuality.

c. Have opportunities for personal privacy, including during the care of personal needs.

d. Keep and use appropriate personal possessions, including wearing the individual's own clothing.

e. Share a room with a spouse when both live on a long-term basis in the same facility.

f. Be free from unnecessary drugs, restraints, and seclusion except when necessary to protect the immediate health or safety of the individual or others.

g. Be free from physical, psychological, sexual, or verbal abuse, neglect and exploitation.

29.6(4) *Communication.* An individual receiving care from a state mental health institute shall have the right to:

a. Have a family contact or representative of the individual's choice or the individual's community physician notified promptly of the individual's admission.

b. Communicate with people and access services at the facility and in the community, including organizing and participating in resident groups while at the facility.

c. Receive visits of the individual's choice from parents, guardians, legal representatives, or family without prior notice given to the facility unless the visits have been determined inappropriate by the individual's treatment team.

d. Communicate and meet privately with persons of the individual's choice without prior notice given to the facility unless the communication is determined inappropriate by the individual's treatment team.

e. Send and receive unopened mail.

f. Make and receive private telephone calls, unless the calls have been determined inappropriate by the individual's treatment team.

g. Access current informational and recreational media such as newspapers, television, or periodicals.

29.6(5) *Self-determination.* An individual receiving care from a state mental health institute shall have the right to:

a. Have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual.

b. Participate in the development and implementation of the individual's treatment plan.

c. Give informed consent, including the right to withdraw consent at any given time.

d. Refuse treatment (such as medication, surgery or electroconvulsive therapy) offered without the individual's expressed informed consent, and be provided with an explanation of the consequences of those refusals unless treatment is necessary to protect the health or safety of the individual or is ordered by a court.

e. Immediate discharge (if admitted voluntarily) by submitting a written notice to the superintendent or chief medical officer, unless a written request for involuntary hospitalization is submitted to a court.

f. Refuse to perform services for the facility and not be coerced to perform services.

g. Manage the individual's own financial affairs unless doing so is limited under law or determined not appropriate by the individual's treatment team.

h. Choose activities, schedules, and care consistent with the individual's interests, needs, and treatment plans.

i. Engage in social, religious, and community activities of the individual's choice.

j. Formulate advanced directives and be provided care in compliance with these directives.

29.6(6) Advocacy. An individual receiving care from a state mental health institute shall have the right to:

a. Exercise the individual's rights as a citizen or resident of the United States.

b. File a grievance pursuant to rule 441—28.4(225C,229) without any intimidation or reprisal resulting from the grievance.

c. Request a judicial review of the hospitalization, file for a writ of habeas corpus, have an attorney of the individual's choice, and communicate and meet privately with the individual's attorney without prior notice given to the facility.

441—29.7(218) Visiting.

29.7(1) Visiting hours on Monday through Friday are from 12 noon to 8 p.m. and are from 10 a.m. to 8 p.m. on Saturday, Sunday, and holidays. Visiting hours shall be posted in each institution. The physician may designate exceptions for special hours on an individual or ward basis. Therapy for the individual shall take precedence over visiting. Visiting shall not interfere with the individual's treatment program or meals.

29.7(2) A visit shall be terminated when behavior on the part of the individual or visitor is disruptive to the individual's treatment plan.

29.7(3) The individual's attending physician or designee shall approve persons wishing to visit an individual.

29.7(4) Visiting on grounds shall be permitted when the individual has a grounds pass.

29.7(5) Visitors wishing to take an individual off grounds shall receive prior approval from the attending physician.

29.7(6) All visitors shall obtain a visitor's pass at the switchboard or another area as designated by the superintendent and posted. The pass shall be given to a ward employee before the visitor is allowed on the ward.

29.7(7) Persons under 12 years of age shall not visit on the ward.

These rules are intended to implement Iowa Code chapters 217, 218, 228, 229, and 230.

ITEM 15. Rescind 441—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30 STATE RESOURCE CENTERS

PREAMBLE

This chapter sets policies for the state resource centers listed in Iowa Code section 218.1. These rules apply in addition to the general rules in 441—Chapter 28.

441—30.1(218,222) Catchment areas. The catchment areas for the two state resource centers shall be as follows.

30.1(1) Glenwood. Adair, Adams, Appanoose, Audubon, Benton, Carroll, Cass, Cedar, Cherokee, Clarke, Clinton, Crawford, Davis, Decatur, Des Moines, Fremont, Greene, Guthrie, Harrison, Henry, Ida, Iowa, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Lyon, Mahaska, Mills, Monona, Monroe, Montgomery, Muscatine, Page, Plymouth, Pottawattamie, Ringgold, Sac, Scott, Shelby, Sioux, Taylor, Union, Van Buren, Wapello, Washington, Wayne, and Woodbury Counties form the catchment area for the Glenwood resource center.

30.1(2) Woodward. Allamakee, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Cerro Gordo, Chickasaw, Clay, Clayton, Dallas, Delaware, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Howard, Humboldt, Jackson, Jasper, Kossuth, Madison, Marion, Marshall, Mitchell, O'Brien, Osceola, Palo Alto, Pocahontas, Polk,

Poweshiek, Story, Tama, Warren, Webster, Winnebago, Winneshiek, Worth, and Wright Counties form the catchment area for the Woodward resource center.

This rule is intended to implement Iowa Code section 222.6.

441—30.2(218,222) Admission. Express written consent of the individual or the individual's parent, guardian, or legal representative shall be secured before admission.

30.2(1) *Application for an adult.* Applications for the care, treatment, or evaluation of an adult individual by a resource center shall be made through the central point of coordination for the board of supervisors of the individual's county of residence.

a. The application shall be made using Form 470-4402, Application for Admission to a State Resource Center, and shall be accompanied by:

- (1) Completed Form 470-4403, Resource Center Agreement and Consent for Services, and
- (2) Other information specifically requested in writing by the resource center.

b. The application shall be submitted through the deputy director or the deputy director's designee.

30.2(2) *Application for a minor.* Application for a minor individual shall be made through the deputy director or the deputy director's designee using Form 470-4402, Application for Admission to a State Resource Center. The application shall be accompanied by:

a. Completed Form 470-4403, Resource Center Agreement and Consent for Services, and

b. Other information specifically requested in writing by the deputy director or the deputy director's designee.

30.2(3) *Application for readmission.* When the application is for a readmission, the resource center may waive the resubmittal of any information already in the files other than Form 470-4402, Application for Admission to a State Resource Center.

30.2(4) *Receipt of application.* Upon receipt of an application, the resource center may:

- a.* Provide an individual with outpatient evaluation treatment, training, or habilitation services; or
- b.* Admit an individual on a temporary basis for either:

(1) A preadmission diagnostic evaluation to determine whether the individual would be appropriate to admit to the regular program, or

(2) A diagnostic evaluation to assist in planning for community-based services or respite care.

30.2(5) *Eligibility for admission.* Eligibility for admission shall be determined by:

- a.* A preadmission diagnostic evaluation,
- b.* An established diagnosis of mental retardation,
- c.* The availability of an appropriate program, and
- d.* The availability of space at the facility.

This rule is intended to implement Iowa Code sections 222.13 and 222.13A.

441—30.3(222) Certification of settlement.

30.3(1) *Certification.* At the time of an individual's application for admission to a resource center, the board of supervisors shall certify through the central point of coordination process that the legal settlement of the person applying for admission is one of the following:

- a.* In the county from which the application is received or where the court is located;
- b.* In another county in Iowa;
- c.* In another state or in a foreign country; or
- d.* Unknown or no legal settlement.

30.3(2) *Supporting evidence.*

a. If legal settlement is certified in the county of admission, no supporting evidence is necessary.

b. If legal settlement is certified in another county, the certification shall be sent to that county as described in Iowa Code section 222.63. A copy of the evidence supporting the determination, as described in 441—subrules 28.3(1) and 28.3(2), shall accompany the certification.

c. If the central point of coordination for the admitting county finds that the person has not acquired legal settlement in an Iowa county, the admitting county shall send the certification as described in Iowa Code section 222.64 to the Administrator, DHS Division of Fiscal Management, 1305 East Walnut

Street, Des Moines, Iowa 50319-0114. The certification shall be accompanied by a copy of the evidence supporting the determination, as described in 441—subrules 28.3(1), 28.3(2), and 28.3(3).

This rule is intended to implement Iowa Code sections 222.31, 222.60, 222.61 to 222.65, 222.69, and 222.70.

441—30.4(222) Liability for support. The liability of any person, other than the individual, who is legally bound for the support of any individual under 18 years of age shall be determined in the same manner as parent liability in rule 441—156.2(234), except that the maximum liability shall not exceed the standards for personal allowances established by the department under the family investment program.

This rule is intended to implement Iowa Code section 222.78.

441—30.5(217,218,225C) Rights of individuals.

30.5(1) Information. An individual receiving care from a state resource center shall have the right to:

- a. Receive an explanation and written copy of the rules of the facility.
- b. Receive an explanation of the individual's medical condition, developmental status, and behavioral status, and be informed as to treatment plans and the attendant risks of treatment.

30.5(2) Care and treatment. An individual receiving care from a state resource center shall have the right to:

- a. Receive appropriate treatment, services, and habilitation for the individual's disabilities, including appropriate and sufficient medical and dental care.
- b. Have the confidentiality of the individual's personal resource center records maintained and have access to those records within a reasonable period.
- c. Work, when available and desired and as appropriate to the individual's plan of treatment, and be compensated for that work in accordance with federal and state laws.

30.5(3) Living conditions. An individual receiving care from a state resource center shall have the right to:

- a. Receive care in a manner that respects and maintains the individual's dignity and individuality.
- b. Have opportunities for personal privacy, including during the care of personal needs.
- c. Keep and use appropriate personal possessions, including wearing the individual's own clothing.
- d. Share a room with a spouse when both live in the same facility.
- e. Be free from unnecessary drugs and restraints.
- f. Be free from physical, psychological, sexual, or verbal abuse, neglect and exploitation.

30.5(4) Communication. An individual receiving care from a state resource center shall have the right to:

- a. Communicate with people and access services at the facility and in the community, including organizing and participating in resident groups while at the facility.
- b. Receive visits of the individual's choice from parents, guardians, legal representatives, or family without prior notice given to the facility unless the visits have been determined inappropriate by the individual's treatment team.
- c. Communicate and meet privately with persons of the individual's choice without prior notice given to the facility unless the communication is determined inappropriate by the individual's treatment team.
- d. Send and receive unopened mail.
- e. Make and receive private telephone calls, unless the calls have been determined inappropriate by the individual's treatment team.

30.5(5) Self-determination. An individual receiving care from a state resource center shall have the right to:

- a. Have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual.
- b. Give informed consent, including the right to withdraw consent at any given time.

c. Refuse treatment (such as medication or behavioral interventions) offered without the individual's expressed informed consent, and be provided with an explanation of the consequences of those refusals unless treatment is necessary to protect the health or safety of the individual or is ordered by a court.

d. Refuse to perform services for the facility and not be coerced to perform services.

e. Manage the individual's own financial affairs unless doing so is limited under law or determined not appropriate by the individual's treatment team.

f. Choose activities, schedules, and care consistent with the individual's interests, needs and care plans.

g. Engage in social, religious, and community activities of the individual's choice.

30.5(6) Advocacy. An individual receiving care from a state resource center shall have the right to:

a. Exercise the individual's rights as a citizen or resident of the United States.

b. File a grievance pursuant to rule 441—28.4(225C,229) without any intimidation or reprisal resulting from the grievance.

This rule is intended to implement Iowa Code sections 217.30, 218.4, 225C.28A, and 225C.28B.

441—30.6(218) Visiting.

30.6(1) The visiting hours at state resource centers shall be from 9 to 11 a.m. and 1 to 4 p.m. for on-ward visits; and from 8:30 a.m. to 8:30 p.m. for off-campus visits. Visiting hours may be extended at the superintendent's or designee's discretion when visitors have traveled a great distance to visit or are able to make visits only rarely.

30.6(2) The individual's treatment team social worker designee must approve persons wishing to visit an individual before the visit.

30.6(3) The individual shall be available only when the individual is not actively involved in a scheduled treatment activity.

30.6(4) A visit shall be terminated when behavior on the part of the individual or the visitor is disruptive to the individual's treatment plan.

30.6(5) Visitors wishing to take a resident off grounds shall obtain prior approval from the individual's treatment team social worker or designee.

This rule is intended to implement Iowa Code section 218.4.